

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

## Terminal Disclaimer Transmittal

Applicant: Miller, *et al.*

Docket No.: RO999-057

RECEIVED  
CENTRAL FAX CENTER

Serial No.: 09/421,585

Group Art Unit: 2126

Filed: 10/20/99

Examiner: OPIE, GEORGE L.

JUL 05 2005

TITLE: APPARATUS AND METHOD FOR PASSIVELY MONITORING LIVENESS  
OF JOBS IN A CLUSTERED COMPUTING ENVIRONMENTCommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing is a Terminal Disclaimer in the above-identified Application.

The fee has been calculated as shown below:

	(Col. 1)	(Col. 2)	Other Than Small Entity	
<input checked="" type="checkbox"/> Filing Fee for Terminal Disclaimer			\$ 130	\$ 130.00
				Total: \$ 130.00

☒ Please charge the filing fee of \$130.00 for the Terminal Disclaimer to Deposit Account No. 09-0465 for IBM Corporation.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 09-0465 for IBM Corporation.

☒ Any additional filing fees required under 37 C.F.R. §1.16.

☒ Any patent application processing fees under 37 C.F.R. §1.17.

Respectfully submitted,

MARTIN & ASSOCIATES, L.L.C.  
P.O. Box 548  
Carthage, MO 64836-0548  
(417) 358-4700By Derek P. Martin  
Derek P. Martin  
Registration No.: 36,595I HEREBY CERTIFY THAT, ON THE DATE SHOWN BELOW, THIS CORRESPONDENCE IS BEING TRANSMITTED VIA  
FAX TO (703) 872-9306.


RECEIVED  
CENTRAL FAX CENTER

JUL 05 2005

PTO/SB/26 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>		Docket Number (Optional) <b>RO999-057</b>
In re Application of: <b>Miller et al.</b>		
Application No.: <b>09/421,585</b>		
Filed: <b>10/20/99</b>		
For: <b>APPARATUS AND METHOD FOR PASSIVELY MONITORING LIVENESS OF JOBS IN A CLUSTERED COMPUTING ENVIRONMENT</b>		
The owner, <b>IBM Corp.</b> , of <b>100</b> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. <b>6,625,639</b> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.		
In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.		
Check either box 1 or 2 below, if appropriate.		
1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.		
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.		
2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <b>36,595</b>		
 Signature		<b>07/05/05</b> Date
Derek P. Martin Typed or printed name		
		<b>417-358-4700</b> Telephone Number
<input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.		
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.		
*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.		

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.